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6 UNITED STATES DISTRICT COURT  
7 FOR THE EASTERN DISTRICT OF WASHINGTON  
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9 ELVIS RUIZ, FRANCISCO JAVIER CASTRO, )  
and EDUARDO MARTINEZ )

10 Plaintiff, )

11 v. )

12 MAX FERNANDEZ and ANN FERNANDEZ, a )  
marital community; and WESTERN RANGE )  
13 ASSOCIATION, a foreign nonprofit organization )

14 Defendant. )  
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**No: CV-11-3088-RMP**

**DEFENDANT'S OPPOSITION  
TO MOTION TO ADMIT PRO  
HAC VICE**

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17 The defendant Max Fernandez submits his opposition to the Motion to Admit Weeun Wang  
18 Pro Hac Vice. ¶ Local Rule 83.2(c)(1) permits admission of an attorney who does not reside  
19 or practice in Washington "...upon showing of particular need to appear and participate in a  
20 particular case." Local Rule 83.2(c)(2) also requires that a motion made pursuant to the Rule  
21 "...shall include...(d) the necessity for appearance by the applicant..." The use of the word  
22 "shall" denotes the imperative. *Doyle v City of Medford*, 606 F.3d 667, 669 (9<sup>th</sup> Cir, 2010)  
23 ("The legislature replaced the discretionary word "may" with the mandatory word "shall").

24 Here, the motion only states that "...Mr. Wang's appearance is to assist in the representation  
25 of the plaintiffs in this matter." The motion does not identify the "necessity" as required by  
26 the rule. Necessity means more than purpose. *Gutierrez v Mun. Ct. of S.E. Judicial District*,  
838 F.2d 1031, 1041 (9<sup>th</sup> Cir, 1988). "Necessity:" is defined as "the fact of being required or  
indispensable." *Oxford Dictionary*.

1 The Motion to Admit Pro Hac Vice does not comply with the requirement of the Local Rule.  
2 Additionally, only those attorneys admitted may appear and file documents. It is noted that  
3 prior to admission the applicant signed the complaint as one of the "attorneys for the  
4 plaintiffs." The complaint is dated September 2, 2011, some seven days before this motion  
5 was made and before admission. The applicant also submitted his own motion for pro hac  
6 vice admission on September 7<sup>th</sup>. Both place the cart before the horse and give rise to  
7 concerns about willingness to comply with the local rules.

8 The defendant, Max Fernandez, request the motion be denied. The applicant has not  
9 complied with the requirement of Local Rule 83.2(d).

10 DATED this 30<sup>th</sup> day of September, 2011.

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14 /s/ Gary E. Lofland  
15 Gary E. Lofland WSBA# 12150  
16 LOFLAND & ASSOCIATES  
17 Counsel for Defendant  
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